(e) the steps being taken by Government for the early implementation of Fifth Pay Commission Report?

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI SATPAL MAHARAJ): (a) to (e) The Government have already taken decisions on the major recommendations of the Fifth Central Pay Commission on 18th July, 1997.

Replacement of FERA by FEMA

708. SHRI NARENDRA MOHAN; Will the Minister of FINANCE be pleased to state:

(a) whether the Foreign Exchange Regulation Act (FERA) is to be replaced by Foreign Exchange Management Act (FEMA);

(b) if so, whether with this replacement, FERA cases would be shelved; and

(c) if so, whether this will not give unintended benefits to offenders under FERA?

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI SATPAL MAHARAJ): (a) to (c) The Government proposes to repeal FERA, 1973 and replace it by Foreign Exchange Management Act, (FEMA), the draft of which is under consideration of the Government.

Steps to ensure transparency of rules/ regulations relating to customs

709. SHRI PARMESHWAR KUMAR AGARWALLA: Will the Minister of FINANCE be pleased to state:

(a) what action has been taken by Government to make ruels, regulations, procedures, guidelines, etc. relating to Customs to make them transparent and unambiguous in the liberalised regime;

(b) whether there are any litigations/ disputes due to non-transparency of such rules, regulations etc. and therefore, requiring clarifications, interpretations etc;

(c) if so, their number during each of last three years; and

(d) what action has been taken to settle the litigations/disputes expeditiously to unable smooth functions of the system in the liberlised regime?

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI SATPAL MAHARAJ): (a) To make the rules, regulations and procedures more transparent and user friendly, active consultation is undertaken with the Trade and Industry Associations and other Ministries before these are framed and notified. In addition, the reactions of different user groups are obtained and discussed in Open Houses, Customs & Excise Adivisory Council, Regional Advisory Councils and Public Grievance Committee to improve and amend the rules, regulations etc.

(b) to (d) Litigation and disputes in tax matters generally arise on account of differences in interpretation where there is a claim for duty concession or in the area of classification and valuation of the goods. There is hardly any litigation on account of non-transparency of Rules and Ragulations.

Application of the concept of unjust enrichment

710. SHRI PARMESHWAR KUMAR AGARWALLA: Will the Minister of FINANCE be pleased to state:

(a) whether it is a fact that concept of "unjuset enrichment" is applicable only on cases of customs duty and excise duty;

(b) if not, which are the other areas on which this concept is applicable;

(c) under what circumstances excess duties/ charges collected by Customs/Excise Departments are not refunded, taking shelter under "unjust enrichment" concept and even after receipt of requisite clarifications/ judgements in favour of assessees;

(d) whether such excess amounts collected are not refundable, even when assessees produce documentary or other evidence showing that burden has not been shifted to clients/ consumers; and

(e) if not, the reasons therefor?